

1 **SULLIVAN HILL REZ & ENGEL**
2 **A Professional Law Corporation**

3 James P. Hill, SBN 90478
4 Gary B. Rudolph, SBN 101921
5 Christopher V. Hawkins, SBN 222961
6 600 B Street, Suite 1700
7 San Diego, CA 92101
8 Telephone: (619) 233-4100
9 Facsimile: (619) 231-4372
10 E-mail: hill@sullivanhill.com;
11 rudolph@sullivanhill.com
12 hawkins@sullivanhill.com

13 Counsel for Certain Claimants

14 **UNITED STATES BANKRUPTCY COURT**
15 **NORTHERN DISTRICT CALIFORNIA OF SAN FRANCISCO DIVISION**

16 In re:

17 PG&E CORPORATION

18 -and-

19 PACIFIC GAS AND ELECTRIC
20 COMPANY,

21 Affects PG&E Corporation

22 Affects Pacific Gas and Electric Company

23 Affects both Debtors

24 } Case No. 19-30088 (DM)

25 } Chapter 11
26 } (lead case)
} (jointly administered)

27 } **MOTION TO ALLOW/DEEM
28 } TIMELY LATE FILING OF
} PROOF OF CLAIM BY
} CERTAIN CLAIMANTS;
} MEMORANDUM OF POINTS
} AND AUTHORITIES**

29 } Place: Telephonic/Video
30 } Appearances Only: United States
31 } Bankruptcy Court

32 } 450 Goldengate Avenue
33 } Courtroom 16, 17th Flr
34 } San Francisco, CA 94102

35 } Judge: Hon. Dennis Montali
36 } **Objection Deadline:**
37 } **May 19, 2023**

38 } (May 22, 2023 if served by mail—
39 } FRBP 9006(f)

1 **TO THE HONORABLE DENNIS MONTALI, UNITED STATES BANKRUPTCY
2 COURT JUDGE, THE OFFICE OF THE UNITED STATES TRUSTEE, AND
3 ALL INTERESTED PARTIES:**

4 Frantz Law Group, APLC, represents thousands of victims of the fires started by
5 PG&E in 2017 (generally referred to as the “North Bay Fires”) and 2018 (“Camp Fire”).
6 This motion is filed on behalf of the claimants (collectively, “Claimants”) listed on
7 **Exhibit “A”** to the Declaration of Regina Bagdasarian filed concurrently herewith
8 (“Bagdasarian Declaration”) to deem timely the late filing of their Proofs of Claim
9 (“Motion”).

10 **I. FACTUAL BACKGROUND**

11 Each of the Claimants is a victim of one of the fires listed above. Each of the
12 Claimants suffered enormously as a result of the fires. Each holds a claim against the
13 Fire Victims Trust (“Trust”) and is clearly deserving of compensation.

14 On September 20, 2022, the Court entered an order (ECF 12983) providing that
15 certain claimants, including the Claimants at issue in this Motion, had until
16 September 30, 2022 to file Proofs of Claim and notify the Fire Victim Trustee
17 (“Trustee”) about such filing.

18 On the same date, the Court entered another order (ECF 12985) providing that
19 certain other of the Claimants had until September 30, 2022 to file Proofs of Claim and
20 notify the Trustee about such filing.

21 Despite the foregoing, the proofs of claim were not filed with the Court timely.
22 This was purely a result of inadvertence. The law firm representing the Claimants at the
23 time DID file Proofs of Claim as exhibits in connection with the pleadings that led to the
24 two orders described above.¹ The law firm did NOT, however, file the Proofs of Claim
25 properly—as stand-alone Proofs of Claim on the claims register. See the Declaration of
26

27 ¹ Proofs of Claims were filed as exhibits for all Claimants except Michael and Sharan Keene.
28

1 Regina Bagdasarian filed concurrently herewith (“Bagdasarian Declaration”), ¶ 2.

2 That filing and notice is now complete. See the Bagdasarian Declaration, ¶ 3

3 Because the late filing of the claims was a consequence of excusable neglect and
4 made in good faith, and because the delay will cause no prejudice to these fully solvent
5 debtors or the Trust, this Motion should be granted and the Court should enter an order
6 in substantially the form attached as Exhibit 1 hereto deeming the Claimants’ Proofs of
7 Claim to have been timely filed. See the Bagdasarian Declaration, ¶ 4.

8 Pursuant to this Court’s Revised Order Consolidating Motions to File Late Claims
9 [ECF 13010], **the deadline for any party, including the Fire Victims Trust (“FVT”),**
10 **to oppose this Motions is May 19, 2023** (*i.e.*, “within 14 days of the filing of the
11 motion”), or by May 22, 2023 if served by mail pursuant to FRBP 9006(f).

12 If the FVT objects to any such motion(s), it needs to file its objection as
13 required by the Consolidation Orders, including a brief statement of the
14 nature of the objection. The objection(s) should be filed and served on the
15 movant or counsel, and should include a notice that the objection(s) will be
16 heard on the next regular PG&E all-purpose calendar date that is at least
17 fifteen (15) days from the date of the objection. Available dates in 2022 are:
18 November 2, 15, 30, December 13, 20 and later dates are posted on the
19 court’s website. The hearings will be governed by B.L.R. 9014-1(b)(3)(C).

20 ECF 1310, ¶ 3.

21 **II. LEGAL AUTHORITY**

22 In Chapter 11 proceedings, bankruptcy courts have broad discretion to accept late
23 filings, including proofs of claim, where tardiness is the consequence of “excusable
24 neglect.” Fed. R. Bank. Pro. 9006(b)(1). This standard is “flexible,” and permits the
25 Court to allow “late filings caused by inadvertence, mistake, or carelessness, as well as
26 by intervening circumstances beyond the party’s control.” Pioneer Inv. Servs. Co. v.
27 Brunswick Assocs. Ltd. P’ship, 507 U.S. 380, 388 (1993). Even a creditor that did in fact
28 receive notice may file a proof of claim notwithstanding the expiration of a claims bar
 date in a Chapter 11 case upon a showing of “excusable neglect.” Id. at 394–95 (“Had

1 respondents here been prevented from complying with the bar date by an act of God or
2 some other circumstance beyond their control, the Bankruptcy Court plainly would have
3 been permitted to find ‘excusable neglect’ [under FRBP 9006].”).

4 Courts considering whether a creditor’s failure was the product of “excusable
5 neglect,” should take into “account of all relevant circumstances surrounding the party’s
6 omission,” including “the danger of prejudice to the debtor, the length of the delay and
7 its potential impact on judicial proceedings, the reason for the delay, including whether it
8 was within the reasonable control of the movant, and whether the movant acted in good
9 faith.” Id. at 395; see also Corning v. Corning (In re Zilog, Inc.), 450 F.3d 996, 1006 (9th
10 Cir. 2006) (noting the non-exhaustive list of relevant factors set forth in Pioneer). A
11 proof of claim filed late is allowable where a creditor had actual notice of the bankruptcy
12 but, due to some external reason, failed to file a proof of claim or did not realize that she
13 had to, before the bar date. See Zilog Inc. v. Corning (In re Zilog, Inc.), 450 F.3d 996,
14 1003-07 (9th Cir. 2006) (applying the Pioneer factors). Rule 9006(b)(1) allows “late
15 filings caused by inadvertence, mistake, or carelessness, as well as those caused by
16 intervening circumstances beyond the party’s control.” Pioneer, 507 U.S. at 381. The test
17 for excusable neglect is “at bottom an equitable [inquiry].” Pioneer Inv. Servs. Co.,
18 507 U.S. at 395.

19 **III. ARGUMENT**

20 Here, all four Pioneer factors weigh in favor of deeming the claims to be timely
21 filed.

22 **No Prejudice**

23 First, doing so will not prejudice these debtors or the Trust. The value of the
24 claims is marginal relative to the Debtors’ estates and the allowance of those claims will
25 not disrupt the reorganization or distribution process. Debtors’ estates are solvent, and
26 all creditors will be paid. See the Bagdasarian Declaration, ¶ 5. See In re Best
27 Payphones, Inc., 523 B.R. 54, 75-6 (Bankr. S.D.N.Y. 2015) and In re Sheehan Mem’l
28 Hosp., 507 B.R. 802, 803 (Bankr. W.D.N.Y. 2014) (where the chapter 11 estate is

1 solvent, “the proper remedy for a late filing is not the expungement of a claim, but its
2 allowance as a tardily filed claim only.). Making this point of no prejudice abundantly
3 clear, counsel for the Trust has informed the Claimants that the Trust will be filing a
4 certificate of nonopposition. See the Bagdasarian Declaration, ¶ 6.

5 **No Impact on the Proceedings**

6 Second, despite the late filing, allowing the claims will have essentially zero
7 impact on the judicial proceedings and will not change the debtors’ reorganization
8 process or the administration of the Trust. There are tens of thousands of similarly
9 situated claimants. The Claimants’ claims will be placed among them, resulting in no
10 noticeable impact upon the distribution process. See the Bagdasarian Declaration, ¶ 7;
11 see also *In re Dix*, 95 B.R. 134, 138 (B.A.P. 9th Cir. 1988) (allowing proof of claim filed
12 two-years late because “there is no indication [of] a negative impact on efficient court
13 administration”); *In re Earth Rock, Inc.*, 153 B.R. at 63 (finding excusable neglect where
14 eight-month delay would not impact reorganization proceedings).

15 **Claimants Should Not Be Penalized for Firm’s Inadvertence**

16 Third, as to the reason for the delay, the law firm’s failure to file the claims timely
17 was purely a result of inadvertence—for which the Claimants should not suffer a result as
18 draconian as disallowance. It was clearly not within the control of the Claimants. See the
19 Bagdasarian Declaration, ¶ 8.

20 **Claims in Good Faith**

21 Fourth, the claims were made in good faith. There is no allegation otherwise, and
22 as described above, the Claimants have been informed by counsel for the Trust that the
23 Trust will be filing a certificate of nonopposition to the Motion. See the Bagdasarian
24 Declaration, ¶ 9.

25 It is abundantly clear that the four Pioneer factors weigh strongly in favor of
26 deeming the claims to be timely filed.

1 **IV. CONCLUSION**

2 For the foregoing reasons, this Motion should be granted, and the Court should
3 enter an order in substantially the form attached as **Exhibit “1”** hereto deeming the
4 Claimants’ Proofs of Claim to have been timely filed.

5 Dated: May 5, 2023

6 SULLIVAN HILL REZ & ENGEL
7 A Professional Law Corporation

8 By: /s/ Christopher V. Hawkins

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25) **ORDER ON MOTION TO**
26) **ALLOW/DEEM TIMELY LATE**
27) **FILING OF PROOF OF CLAIM**
28) **BY CERTAIN CLAIMANTS**

29 Affects PG&E Corporation

30 Affects Pacific Gas and Electric
31 Company

32 Affects both Debtors

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The Court having considered the *Motion to Allow/Deem Timely Late Filing of Proof of Claim* filed by those claimants listed on **Exhibit “A”** hereto (“Claimants”); and good cause appearing therefor,

IT IS HEREBY ORDERED THAT the claims of the Claimants are deemed timely filed with the Court and noticed to the Fire Victims Trust.

** END OF ORDER**

EXHIBIT “A”

Name as it will appear in the Motion	Claim No.
Bryan Navarro	ASHVP27402[[CSLT# 4025#CF]]
Jason Navarro	ASHVP27402[[CSLT# 4025#CF]]
Heather Navarro	ASHVP27402[[CSLT# 4025#CF]]
Kelly Navarro	ASHVP27402[[CSLT# 4025#CF]]
Vincent Raczynski	FOSOL27402[[CSLT# 4025#CF]]
Lisa Raczynski	FOSOL27402[[CSLT# 4025#CF]]
Linnise Maria Montgomery	EOSZE27402[[CSLT# 4025#CF]]
David Montgomery	EOSZE27402[[CSLT# 4025#CF]]
Jesse McCord	GFRED27402[[CSLT# 4025#CF]]
Christa McCord	GFRED27402[[CSLT# 4025#CF]]
Tenli McCord	GFRED27402[[CSLT# 4025#CF]]
Viggo McCord	GFRED27402[[CSLT# 4025#CF]]
Luke McCord	GFRED27402[[CSLT# 4025#CF]]
Jason McCord	SCVLT27402[[CSLT# 4025#CF]]
Jordan McCord	SCVLT27402[[CSLT# 4025#CF]]
Taylor McCord	SCVLT27402[[CSLT# 4025#CF]]
Maria McCord	SCVLT27402[[CSLT# 4025#CF]]
Atilavea Togafau	SCVLT27402[[CSLT# 4025#CF]]
Kealia McCord	!***F27402[[CSLT#4025#CF]]
Gary Lynn Koch	FZUXO27402[[CSLT# 4025#CF]]
Lorraine Gail Koch	FZUXO27402[[CSLT# 4025#CF]]
Michael Keene	UE*AN27402[[CSLT# 4025#CF]]
Sharan Keene	UE*AN27402[[CSLT# 4025#CF]]
Tyler Allen Dwelle	VVUWZ27402[[CSLT #4025#CF]]